

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 16, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN SENATE MAY 11, 2005

SENATE BILL

No. 1111

**Introduced by Committee on Business, Professions and Economic
Development (Senators Figueroa (Chair), Aanestad, Campbell,
Florez, Morrow, Murray, and Simitian)**

March 30, 2005

An act to amend Sections 1725, 1741, 1750.2, 1750.3, 1752.5, 1753, 1753.1, 1753.5, 1757, 2053.5, 2053.6, 2064, 2230, 2234.1, 2466, 2472, 2474, 2475, 2492, 2493, ~~2496~~, 2498, 2499.8, 2741, 3735, 3739, 4005, 4038, 4053, 4104, 4106, 4114, 4115, 4115.5, 4127.5, 4161, 4202, 4205, 4231, 4232, 4315, 4360, 4364, 4365, 4366, 4369, 4371, 4372, 4373, 4400, and 4850 of, to amend and renumber Section 1753 of, to add Sections 1752.6, 3779, and 4023.5 to, to repeal Sections 1752, 2570.8, 3735.3, 3736, 3775.2, 3775.3, 4206, 4363, 4367, 4368, and 4370 of, and to repeal and add Sections 4361 and 4362 of, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

Existing law provides for the regulation of various professions, including physicians and surgeons, podiatrists, physician assistants, dentists, dental auxiliaries, nurses, respiratory care practitioners, and pharmacists.

This bill would revise and recast certain provisions regulating these professions. The bill would specify that the fee for issuance of a license for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, and registered dental assistants shall not exceed \$50. The bill would require the Dental Board of California to license a person who meets specified requirements as a registered dental assistant and it would also expand those requirements. The bill would specify that, on and after January 1, 2007, a registered dental assistant may perform specified duties and procedures similar to other dental auxiliaries. The bill would authorize, on and after January 1, 2007, a registered dental assistant in extended functions to perform all duties and procedures that a registered dental assistant is authorized to perform. The bill would require the Division of Medical Quality of the Medical Board of California to organize itself as 2 panels of 7 members. The bill would provide that a podiatric medicine licensee whose renewal fee has been waived cannot practice podiatric medicine unless specified requirements have been satisfied. The bill would require an applicant for a license to practice respiratory care to successfully pass the national respiratory therapist examination. The bill would require a pharmacy to have written policies and procedures for detecting chemical, mental, or physical impairment among licensed individuals employed by or with the pharmacy. The bill would require a pharmacy to report certain information to the California State Board of Pharmacy for the protection of the public. The bill would require the board to operate a pharmacists recovery program to rehabilitate pharmacists and intern pharmacists whose competence may be impaired due to abuse of alcohol, drug use, or mental illness. The bill would establish requirements for this program and require the board to contract with one or more qualified contractors to administer the program. Because the bill would increase fees under the Pharmacy Law that would be deposited into the Pharmacy Board Contingent Fund which is continuously appropriated, the bill would make an appropriation.

The bill would incorporate additional changes to Section 2234.1 of the Business and Professions Code made by this bill and AB 592 to take effect if both bills are enacted and this bill is enacted last.

Because a violation of the bill with respect to podiatrists and pharmacists would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1725 of the Business and Professions
- 2 Code is amended to read:
- 3 1725. The amount of the fees prescribed by this chapter that
- 4 relate to the licensing of dental auxiliaries shall be established by
- 5 board resolution and subject to the following limitations:
- 6 (a) The application fee for an original license shall not exceed
- 7 twenty dollars (\$20).
- 8 (b) The fee for issuance of a license as a registered orthodontic
- 9 assistant, registered surgery assistant, registered restorative
- 10 assistant, or registered dental assistant shall not exceed fifty
- 11 dollars (\$50).
- 12 (c) The fee for examination for licensure as a registered dental
- 13 assistant in extended functions or a registered restorative
- 14 assistant in extended functions shall not exceed two hundred fifty
- 15 dollars (\$250).
- 16 (d) The fee for examination for licensure as a registered dental
- 17 hygienist shall not exceed two hundred twenty dollars (\$220).
- 18 (e) For third- and fourth-year dental students, the fee for
- 19 examination for licensure as a registered dental hygienist shall
- 20 not exceed the actual cost of the examination.
- 21 (f) The fee for examination for licensure as a registered dental
- 22 hygienist in extended functions shall not exceed two hundred
- 23 fifty dollars (\$250).
- 24 (g) The board shall establish the fee at an amount not to
- 25 exceed the actual cost for licensure as a registered dental
- 26 hygienist in alternative practice.
- 27 (h) The biennial renewal fee for a dental auxiliary whose
- 28 license expires on or after January 1, 1991, shall not exceed sixty

1 dollars (\$60). On or after January 1, 1992, the board may set the
2 renewal fee in an amount not to exceed eighty dollars (\$80).

3 (i) The delinquency fee shall not exceed twenty-five dollars
4 (\$25) or one-half of the renewal fee, whichever is greater. Any
5 delinquent license may be restored only upon payment of all fees,
6 including the delinquency fee.

7 (j) The fee for issuance of a duplicate registration, license, or
8 certificate to replace one that is lost or destroyed, or in the event
9 of a name change, shall not exceed twenty-five dollars (\$25).

10 (k) The fee for each curriculum review and site evaluation for
11 educational programs for registered dental assistants which are
12 not accredited by a board-approved agency, the Council for
13 Private Postsecondary and Vocational Education, or the
14 Chancellor's office of the California Community Colleges shall
15 not exceed one thousand four hundred dollars (\$1,400).

16 (l) The fee for each curriculum review and site evaluation for
17 radiation safety courses or specialty registration courses that are
18 not accredited by a board-approved agency, the Council for
19 Private Postsecondary and Vocational Education, or the
20 Chancellor's office of the California Community Colleges shall
21 not exceed three hundred dollars (\$300).

22 (m) No fees or charges other than those listed in subdivisions
23 (a) through (k) above shall be levied by the board in connection
24 with the licensure of dental auxiliaries, registered dental
25 assistants educational program site evaluations and radiation
26 safety course site evaluations pursuant to this chapter.

27 (n) Fees fixed by the board pursuant to this section shall not be
28 subject to the approval of the Office of Administrative Law.

29 (o) Fees collected pursuant to this section shall be deposited in
30 the State Dental Auxiliary Fund.

31 SEC. 2. Section 1741 of the Business and Professions Code is
32 amended to read:

33 1741. As used in this article:

34 (a) "Board" means the Dental Board of California.

35 (b) "Committee" means the Committee on Dental Auxiliaries.

36 (c) "Direct supervision" means supervision of dental
37 procedures based on instructions given by a licensed dentist, who
38 must be physically present in the treatment facility during the
39 performance of those procedures.

1 (d) “General supervision” means supervision of dental
2 procedures based on instructions given by a licensed dentist but
3 not requiring the physical presence of the supervising dentist
4 during the performance of those procedures.

5 (e) “Dental auxiliary” means a person who may perform
6 dental assisting or dental hygiene procedures authorized by this
7 article.

8 SEC. 3. Section 1750.2 of the Business and Professions Code
9 is amended to read:

10 1750.2. (a) On and after January 1, 2007, the board shall
11 license as a “registered orthodontic assistant,” “registered surgery
12 assistant,” or “registered restorative assistant” any person who
13 submits written evidence of satisfactory completion of a course
14 or courses approved by the board pursuant to subdivision (b) that
15 qualifies him or her in one of these specialty areas of practice.

16 (b) The board shall adopt regulations for the approval of
17 postsecondary specialty registration courses in the specialty areas
18 specified in this section.

19 The regulations shall define the minimum education and
20 training requirements necessary to achieve proficiency in the
21 procedures authorized for each specialty registration, taking into
22 account the combinations of classroom and practical instruction,
23 clinical training, and supervised work experience that are most
24 likely to provide the greatest number of opportunities for
25 improving dental assisting skills efficiently.

26 (c) The board may approve specialty registration courses
27 referred to in this section prior to January 1, 2007, and the board
28 shall recognize the completion of these approved courses prior to
29 January 1, 2007, but no specialty registrations shall be issued
30 prior to January 1, 2007.

31 (d) A person who holds a specialty registration pursuant to this
32 section shall be subject to the continuing education requirements
33 established by the board pursuant to Section 1645 and the
34 renewal requirements of Article 6 (commencing with Section
35 1715).

36 SEC. 4. Section 1750.3 of the Business and Professions Code
37 is amended to read:

38 1750.3. (a) A registered orthodontic assistant may perform
39 all of the following dental procedures, as well as those authorized
40 by board regulations adopted pursuant to Section 1751:

- 1 (1) Any duties that a dental assistant may perform.
- 2 (2) Mouth-mirror inspections of the oral cavity, to include
- 3 charting of obvious lesions, existing restorations, and missing
- 4 teeth.
- 5 (3) Placing metal orthodontic separators.
- 6 (4) Placing ligatures and arch wires.
- 7 (5) Taking orthodontic impressions.
- 8 (6) Sizing, fitting, cementing, and removal of orthodontic
- 9 bands.
- 10 (7) Selecting, prepositioning, curing in a position approved by
- 11 the supervising dentist, and removal of orthodontic brackets.
- 12 (7) Coronal polishing.
- 13 (9) Preparing teeth for bonding.
- 14 (10) Applying bleaching agents and activating bleaching
- 15 agents with nonlaser, light-curing devices.
- 16 (11) Removal of excess cement from coronal surfaces of teeth
- 17 under orthodontic treatment by means of a hand instrument or an
- 18 ultrasonic scaler.
- 19 (12) Taking facebow transfers and bite registrations for
- 20 diagnostic models for case study only.
- 21 (b) A registered surgery assistant may perform the following
- 22 dental procedures, as well as those authorized by board
- 23 regulations adopted pursuant to Section 1751:
- 24 (1) Any duties that a dental assistant may perform.
- 25 (2) Mouth-mirror inspections of the oral cavity, to include
- 26 charting of obvious lesions, existing restorations, and missing
- 27 teeth.
- 28 (3) Monitoring of patients during the preoperative,
- 29 intraoperative, and postoperative phases, using noninvasive
- 30 instrumentation such as pulse oximeters, electrocardiograms, and
- 31 capnography.
- 32 (4) Taking impressions for surgical splints and occlusal
- 33 guards.
- 34 (5) Placement of surgical dressings .
- 35 (6) Adding drugs, medications, and fluids to intravenous lines,
- 36 provided that a licensed dentist is present at the patient's
- 37 chairside.
- 38 (7) Removal of intravenous lines.

1 (c) A registered restorative assistant may perform all of the
2 following dental procedures, as well as those authorized by board
3 regulations adopted pursuant to Section 1751:

4 (1) Any duties that a dental assistant may perform.

5 (2) Mouth-mirror inspections of the oral cavity, to include
6 charting of obvious lesions, existing restorations, and missing
7 teeth.

8 (3) Sizing, fitting, adjusting, intraorally fabricating,
9 temporarily cementing, and removing temporary crowns and
10 other temporary restorations.

11 (4) Placing bases and liners on sound dentin.

12 (5) Removing excess cement from supragingival surfaces of
13 teeth with a hand instrument or an ultrasonic scaler.

14 (6) Taking facebow transfers and bite registrations for
15 diagnostic models for case study only.

16 (7) Taking impressions for space-maintaining appliances and
17 occlusal guards.

18 (8) Coronal polishing.

19 (9) Applying pit and fissure sealants.

20 (10) Applying bleaching agents and activating bleaching
21 agents with nonlaser, light-curing devices.

22 (11) Placement of surgical dressings.

23 (d) The supervising dentist shall be responsible for
24 determining the level of supervision required for assistants
25 registered pursuant to this section.

26 (e) This section shall become operative on January 1, 2007.

27 SEC. 5. Section 1752 of the Business and Professions Code,
28 as added by Section 13 of Chapter 667 of the Statutes of 2004, is
29 repealed.

30 SEC. 6. Section 1752.5 of the Business and Professions Code
31 is amended to read:

32 1752.5. On and after September 1, 2006, a person may apply
33 for and be issued a license as a registered dental assistant upon
34 providing evidence to the board of one of the following:

35 (a) Successful completion of an educational program in
36 registered dental assisting approved by the board on or after
37 January 1, 2006, to teach all of the functions specified in Section
38 1750.3.

39 (b) Successful completion of:

(1) An educational program in registered dental assisting approved by the board on or before December 31, 2006, to teach the duties that registered dental assistants were allowed to perform pursuant to board regulations prior to January 1, 2007.

(2) A board-approved course or courses in the following duties:

(A) Selecting, prepositioning, curing in a position approved by the supervising dentist, and removal of orthodontic brackets.

(B) Monitoring of patients during the preoperative, intraoperative, and postoperative phases, using noninvasive instrumentation such as pulse oximeters, electrocardiograms, and capnography.

(C) Adding drugs, medications, and fluids to intravenous lines.

(D) Applying pit and fissure sealants.

(c) Successful completion of:

(1) Twelve months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks.

(2) The three board-approved specialty registration courses, as defined in Section 1750.2, for registration as a registered orthodontic assistant, registered surgery assistant, and registered restorative assistant.

(3) A board-approved radiation safety program.

SEC. 7. Section 1752.6 is added to the Business and Professions Code, to read:

1752.6. A registered dental assistant may perform all duties and procedures that a dental assistant, registered orthodontic assistant, registered surgery assistant, and a registered restorative assistant are allowed to perform, as well as those procedures authorized by regulations adopted pursuant to Section 1751, except for the following:

(a) A registered dental assistant who qualifies for licensure under subdivision (a) of Section 1752.5 may only perform the registered surgery assistant duty of adding drugs, medications,

1 and fluids to intravenous lines after providing evidence of
2 completion of a board-approved course in this duty.

3 (b) A registered dental assistant licensed on or before July 1,
4 2007, who qualified for licensure prior to September 1, 2006,
5 may only perform the following duties after the completion of a
6 board-approved course or courses in the following duties:

7 (1) Selecting, prepositioning, curing in a position approved by
8 the supervising dentist, and removal of orthodontic brackets.

9 (2) Monitoring of patients during the preoperative,
10 intraoperative, and postoperative phases, using noninvasive
11 instrumentation such as pulse oximeters, electrocardiograms, and
12 capnography.

13 (3) Adding drugs, medications, and fluids to intravenous lines.

14 (4) Applying pit and fissure sealants.

15 (c) The supervising dentist shall be responsible for
16 determining the level of supervision required for authorized
17 procedures performed by registered dental assistants.

18 (d) This section shall become operative on January 1, 2007.

19 SEC. 8. Section 1753 of the Business and Professions Code,
20 as amended by Section 15 of Chapter 667 of the Statutes of 2004,
21 is amended and renumbered to read:

22 1752.1. (a) The board shall license as a registered dental
23 assistant a person who files an application prior to September 1,
24 2006, and submits written evidence, satisfactory to the board, of
25 either one of the following requirements:

26 (1) Graduation from an educational program in dental assisting
27 approved by the board, and satisfactory performance on written
28 and practical examinations required by the board.

29 (2) Satisfactory work experience of more than 12 months as a
30 dental assistant in California or another state and satisfactory
31 performance on a written and practical examination required by
32 the board. The board shall give credit toward the 12 months work
33 experience referred to in this subdivision to persons who have
34 graduated from a dental assisting program in a postsecondary
35 institution approved by the Department of Education or in a
36 secondary institution, regional occupational center, or regional
37 occupational program, that are not, however, approved by the
38 board pursuant to subdivision (a). The credit shall equal the total
39 weeks spent in classroom training and internship on a
40 week-for-week basis not to exceed 16 weeks. The board, in

1 cooperation with the Superintendent of Public Instruction, shall
2 establish the minimum criteria for the curriculum of
3 nonboard-approved programs. Additionally, the board shall
4 notify those programs only if the program's curriculum does not
5 meet established minimum criteria, as established for
6 board-approved registered dental assistant programs, except any
7 requirement that the program be given in a postsecondary
8 institution. Graduates of programs not meeting established
9 minimum criteria shall not qualify for satisfactory work
10 experience as defined by this section.

11 (b) In addition to the requirements specified in subdivision (a),
12 each applicant for registered dental assistant licensure on or after
13 July 1, 2002, shall provide evidence of having successfully
14 completed board-approved courses in radiation safety and
15 coronal polishing as a condition of licensure. The length and
16 content of the courses shall be governed by applicable board
17 regulations.

18 (c) An applicant who fails to pass the written and practical
19 examinations required by this section on or before June 30, 2007,
20 shall not be eligible for further reexamination and must apply for
21 and meet the requirements for registered dental assistant
22 licensure specified in Section 1752.5. Between September 1,
23 2006, and June 30, 2007, an applicant shall only be allowed to
24 apply to take the written examination two times, and shall only
25 be allowed to apply to take the practical examination two times.

26 (d) This section shall become inoperative on December 31,
27 2007, and, as of January 1, 2008, is repealed, unless a later
28 enacted statute, that is enacted before January 1, 2008, deletes or
29 extends the dates on which it becomes inoperative and is
30 repealed.

31 SEC. 9. Section 1753 of the Business and Professions Code,
32 as added by Section 16 of Chapter 667 of the Statutes of 2004, is
33 amended to read:

34 1753. (a) On and after January 1, 2007, the board shall
35 license as a registered dental assistant in extended functions a
36 person who submits written evidence, satisfactory to the board,
37 of all of the following:

38 (1) Current licensure as a registered dental assistant, or
39 completion of the requirements for licensure as a registered
40 dental assistant, as provided in Section 1752.5.

1 (2) Successful completion of either of the following:

2 (A) An extended functions postsecondary program approved
3 by the board in all of the procedures specified in Section 1753.1.

4 (B) An extended functions postsecondary program approved
5 by the board on or before January 1, 2006, and a course approved
6 by the board in the procedures specified in paragraphs (8)
7 through (13) of subdivision (b) of Section 1753.1.

8 (3) Successful completion of board-approved courses in
9 radiation safety and, within the last two years, courses in
10 infection control, California dental law, and basic life support.

11 (4) Satisfactory performance on a written examination and a
12 clinical or practical examination specified by the board. The
13 board shall designate whether the written examination shall be
14 administered by the committee or by the board-approved
15 extended functions program.

16 (b) On and after January 1, 2007, the board shall license as a
17 registered restorative assistant in extended functions a person
18 who submits written evidence, satisfactory to the board, of all of
19 the following:

20 (1) Completion of 12 months of satisfactory work experience
21 as a dental assistant in California or another state. The board
22 shall give credit toward the 12 months of work experience to
23 persons who have graduated from a dental assisting program in a
24 postsecondary institution, secondary institution, regional
25 occupational center, or regional occupation program that are not
26 approved by the board. The credit shall equal the total weeks
27 spent in classroom training and internship on a week-for-week
28 basis, not to exceed 16 weeks.

29 (2) Successful completion of a board-approved course in
30 radiation safety, and, within the last two years, courses in
31 infection control, California dental law, and basic life support.

32 (3) Successful completion of a postsecondary program
33 approved by the board for restorative dental assisting specialty
34 registration specified in subdivision (c) of Section 1750.3.

35 (4) Successful completion of an extended functions
36 postsecondary program approved by the board in all of the
37 procedures specified in Section 1753.1.

38 (5) Satisfactory performance on a written examination and a
39 clinical or practical examination specified by the board. The
40 board shall designate whether the written examination shall be

1 administered by the committee or by the board-approved
2 extended functions program.

3 (c) In approving extended functions postsecondary programs
4 required to be completed for licensure pursuant to this section,
5 the board shall require that the programs be taught by persons
6 having prior experience teaching the applicable procedures
7 specified in Section 1753.1, or procedures otherwise authorized
8 by the board pursuant to Section 1751, in a dental school
9 approved either by the Commission on Dental Accreditation or a
10 comparable organization approved by the board. Approved
11 programs shall include didactic, laboratory, and clinical
12 modalities.

13 (d) The board may approve extended functions postsecondary
14 programs referred to in this section prior to January 1, 2007, and
15 the board shall recognize the completion of these approved
16 programs prior to January 1, 2007.

17 SEC. 10. Section 1753.1 of the Business and Professions
18 Code is amended to read:

19 1753.1. (a) A registered dental assistant in extended
20 functions licensed on or after January 1, 2007, is authorized to
21 perform all duties and procedures that a registered dental
22 assistant is authorized to perform, and those duties that the board
23 may prescribe by regulation pursuant to Section 1751.

24 (b) A registered dental assistant in extended functions licensed
25 on or after January 1, 2007, is authorized to perform the
26 following additional procedures under direct supervision and
27 pursuant to the order, control, and full professional responsibility
28 of a licensed dentist:

- 29 (1) Cord retraction of gingivae for impression procedures.
- 30 (2) Taking impressions for cast restorations.
- 31 (3) Formulating indirect patterns for endodontic post and core
32 castings.
- 33 (4) Fitting trial endodontic filling points.
- 34 (5) Drying canals previously opened by the supervising
35 dentist, with absorbent points.
- 36 (6) Testing pulp vitality.
- 37 (7) Removing excess cement from subgingival tooth surfaces
38 with a hand instrument.
- 39 (8) Fitting and cementing stainless steel crowns.
- 40 (9) Placing, condensing, and carving amalgam restorations.

1 (10) Placing class I, III, and V nonmetallic restorations.

2 (11) Taking facebow transfers and bite registrations for fixed
3 prostheses.

4 (12) Taking final impressions for tooth-borne, removable
5 prostheses.

6 (13) Placing and adjusting permanent crowns for cementation
7 by the dentist.

8 (14) Applying etchants for bonding restorative materials.

9 (15) Other procedures authorized by regulations adopted by
10 the board pursuant to Section 1751.

11 (c) A registered restorative assistant in extended functions
12 licensed on or after January 1, 2007, is authorized to perform all
13 duties and procedures that a registered restorative assistant is
14 authorized to perform, those duties that the board may prescribe
15 by regulation pursuant to Section 1751, and the duties specified
16 in subdivision (b) of this section.

17 (d) All procedures required to be performed under direct
18 supervision shall be checked and approved by the supervising
19 dentist prior to the patient's dismissal from the office.

20 SEC. 11. Section 1753.5 of the Business and Professions
21 Code is amended to read:

22 1753.5. A registered dental assistant may apply pit and fissure
23 sealants under the general supervision of a licensed dentist, after
24 providing evidence to the board of having completed a
25 board-approved course in that procedure.

26 SEC. 12. Section 1757 of the Business and Professions Code
27 is amended to read:

28 1757. (a) Each person who holds a license as a registered
29 dental assistant in extended functions on the effective date of this
30 section may only perform those procedures that a registered
31 dental assistant is allowed to perform as specified in and limited
32 by subdivision (b) of Section 1752.6, and the procedures listed in
33 paragraphs (1), (2), (3), (4), (5), (6), (7), and (14) of subdivision
34 (b) of Section 1753.1, until he or she provides evidence of having
35 completed a board-approved course or courses in the additional
36 procedures specified in paragraphs (8) to (13) of subdivision (b)
37 of Section 1753.1, and an examination in those additional
38 procedures as specified by the board.

39 (b) This section shall become operative on January 1, 2007.

SEC. 13. Section 2053.5 of the Business and Professions Code is amended to read:

2053.5. (a) Notwithstanding any other provision of law, a person who complies with the requirements of Section 2053.6 shall not be in violation of Section 2051 or 2052 unless that person does any of the following:

(1) Conducts surgery or any other procedure on another person that punctures the skin or harmfully invades the body.

(2) Administers or prescribes X-ray radiation to another person.

(3) Prescribes or administers legend drugs or controlled substances to another person.

(4) Recommends the discontinuance of legend drugs or controlled substances prescribed by an appropriately licensed practitioner.

(5) Willfully diagnoses and treats a physical or mental condition of any person under circumstances or conditions that cause or create a risk of great bodily harm, serious physical or mental illness, or death.

(6) Sets fractures.

(7) Treats lacerations or abrasions through electrotherapy.

(8) Holds out, states, indicates, advertises, or implies to a client or prospective client that he or she is a physician, a surgeon, or a physician and surgeon.

(b) A person who advertises any services that are not unlawful under Section 2051 or 2052 pursuant to subdivision (a) shall disclose in the advertisement that he or she is not licensed by the state as a healing arts practitioner.

SEC. 14. Section 2053.6 of the Business and Professions Code is amended to read:

2053.6. (a) A person who provides services pursuant to Section 2053.5 that are not unlawful under Section 2051 or 2052 shall, prior to providing those services, do the following:

(1) Disclose to the client in a written statement using plain language the following information:

(A) That he or she is not a licensed physician.

(B) That the treatment is alternative or complementary to healing arts services licensed by the state.

(C) That the services to be provided are not licensed by the state.

1 (D) The nature of the services to be provided.

2 (E) The theory of treatment upon which the services are based.

3 (F) His or her educational, training, experience, and other
4 qualifications regarding the services to be provided.

5 (2) Obtain a written acknowledgment from the client stating
6 that he or she has been provided with the information described
7 in paragraph (1). The client shall be provided with a copy of the
8 written acknowledgement, which shall be maintained by the
9 person providing the service for three years.

10 (b) The information required by subdivision (a) shall be
11 provided in a language that the client understands.

12 (c) Nothing in this section or in Section 2053.5 shall be
13 construed to do the following:

14 (1) Affect the scope of practice of licensed physicians and
15 surgeons.

16 (2) Limit the right of any person to seek relief for negligence
17 or any other civil remedy against a person providing services
18 subject to the requirements of this section.

19 SEC. 15. Section 2064 of the Business and Professions Code
20 is amended to read:

21 2064. Nothing in this chapter shall be construed to prevent a
22 regularly matriculated student undertaking a course of
23 professional instruction in an approved medical school, or to
24 prevent a foreign medical student who is enrolled in an approved
25 medical school and clinical training program in this state, or to
26 prevent students enrolled in a program of supervised clinical
27 training under the direction of an approved medical school
28 pursuant to Section 2104, from engaging in the practice of
29 medicine whenever and wherever prescribed as a part of his or
30 her course of study.

31 SEC. 16. Section 2230 of the Business and Professions Code
32 is amended to read:

33 2230. (a) All proceedings against a licensee for
34 unprofessional conduct, or against an applicant for licensure for
35 unprofessional conduct or cause, shall be conducted in
36 accordance with the Administrative Procedure Act (Chapter 5
37 (commencing with Section 11500) of Part 1 of Division 3 of Title
38 2 of the Government Code) except as provided in this chapter,
39 and shall be prosecuted by the Senior Assistant Attorney General
40 of the Health Quality Enforcement Section.

(b) For the purpose of exercising its disciplinary authority against a physician and surgeon pursuant to this chapter and the Administrative Procedure Act, the Division of Medical Quality shall organize itself as two panels of seven members. Two members of each panel shall be public members. For purposes of this article, “agency itself,” as used in the Administrative Procedure Act, means a panel of the division as described in this subdivision. The decision or order of a panel imposing any disciplinary action pursuant to this chapter and the Administrative Procedure Act shall be final.

SEC. 17. Section 2234.1 of the Business and Professions Code is amended to read:

2234.1. (a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine he or she practices.

(3) It does not cause a delay in or discourage traditional diagnosis of a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.

(b) For purposes of this section, “alternative or complementary medicine” means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient’s medical condition that is not outweighed by the risk of the health care method.

SEC. 17.5. Section 2234.1 of the Business and Professions Code is amended to read:

2234.1. (a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered

1 to a patient is alternative or complementary medicine, including
2 the treatment of persistent Lyme Disease, if that treatment or
3 advice meets all of the following requirements:

4 (1) It is provided after informed consent and a good-faith prior
5 examination of the patient, and medical indication exists for the
6 treatment or advice, or it is provided for health or well-being.

7 (2) It is provided after the physician and surgeon has given the
8 patient information concerning conventional treatment and
9 describing the education, experience, and credentials of the
10 physician and surgeon related to the alternative or
11 complementary medicine that he or she practices.

12 (3) In the case of alternative or complementary medicine, it
13 does not cause a delay in, or discourage traditional diagnosis of,
14 a condition of the patient.

15 (4) It does not cause death or serious bodily injury to the
16 patient.

17 (b) For purposes of this section, “alternative or complementary
18 medicine,” means those health care methods of diagnosis,
19 treatment, or healing that are not generally used but that provide
20 a reasonable potential for therapeutic gain in a patient’s medical
21 condition that is not outweighed by the risk of the health care
22 method.

23 (c) Since the National Institute of Medicine has reported that it
24 can take up to 17 years for a new best practice to reach the
25 average physician and surgeon, it is prudent to give attention to
26 new developments not only in general medical care but in the
27 actual treatment of specific diseases, particularly those that are
28 not yet broadly recognized in California.

29 SEC. 18. Section 2466 of the Business and Professions Code
30 is amended to read:

31 2466. All members of the board shall be appointed for terms
32 of four years. Vacancies shall immediately be filled by the
33 appointing power for the unexpired portion of the terms in which
34 they occur. No person shall serve as a member of the board for
35 more than two consecutive terms.

36 SEC. 19. Section 2472 of the Business and Professions Code
37 is amended to read:

38 2472. (a) The certificate to practice podiatric medicine
39 authorizes the holder to practice podiatric medicine.

(b) As used in this chapter, “podiatric medicine” means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(d) (1) A doctor of podiatric medicine who is ankle certified by the board on and after January 1, 1984, may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

(C) Perform a partial amputation of the foot no further proximal than the Chopart’s joint.

(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

(3) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care

1 hospital described in paragraph (1) and meets all the protocols of
2 the surgical center.

3 (4) A freestanding physical plant housing outpatient services
4 of a licensed general acute care hospital, as defined in Section
5 1250 of the Health and Safety Code, if the doctor of podiatric
6 medicine has surgical privileges, including the privilege to
7 perform surgery on the ankle, in a general acute care hospital
8 described in paragraph (1). For purposes of this section, a
9 “freestanding physical plant” means any building that is not
10 physically attached to a building where inpatient services are
11 provided.

12 (5) An outpatient setting accredited pursuant to subdivision (g)
13 of Section 1248.1 of the Health and Safety Code.

14 (f) A doctor of podiatric medicine shall not perform an
15 admitting history and physical examination of a patient in an
16 acute care hospital where doing so would violate the regulations
17 governing the Medicare program.

18 (g) A doctor of podiatric medicine licensed under this chapter
19 is a licentiate for purposes of paragraph (2) of subdivision (a) of
20 Section 805, and thus is a health care practitioner subject to the
21 provisions of Section 2290.5 pursuant to subdivision (b) of that
22 section.

23 SEC. 20. Section 2474 of the Business and Professions Code
24 is amended to read:

25 2474. Any person who uses in any sign or in any
26 advertisement or otherwise, the word or words “doctor of
27 podiatric medicine,” “doctor of podiatry,” “podiatric doctor,”
28 “D.P.M.,” “podiatrist,” “foot specialist,” or any other term or
29 terms or any letters indicating or implying that he or she is a
30 doctor of podiatric medicine, or that he or she practices podiatric
31 medicine, or holds himself out as practicing podiatric medicine
32 or foot correction as defined in Section 2472, without having at
33 the time of so doing a valid, unrevoked, and unsuspended
34 certificate as provided for in this chapter, is guilty of a
35 misdemeanor.

36 SEC. 21. Section 2475 of the Business and Professions Code
37 is amended to read:

38 2475. Unless otherwise provided by law, no postgraduate
39 trainee, intern, resident postdoctoral fellow, or instructor may
40 engage in the practice of podiatric medicine, or receive

1 compensation therefor, or offer to engage in the practice of
2 podiatric medicine unless he or she holds a valid, unrevoked, and
3 unsuspended certificate to practice podiatric medicine issued by
4 the division. However, a graduate of an approved college or
5 school of podiatric medicine upon whom the degree doctor of
6 podiatric medicine has been conferred, who is issued a resident's
7 license, which may be renewed annually for up to four years for
8 this purpose by the division upon recommendation of the board,
9 and who is enrolled in a postgraduate training program approved
10 by the board, may engage in the practice of podiatric medicine
11 whenever and wherever required as a part of that program and
12 may receive compensation for that practice under the following
13 conditions:

14 (a) A graduate with a resident's license in an approved
15 internship, residency, or fellowship program may participate in
16 training rotations outside the scope of podiatric medicine, under
17 the supervision of a physician and surgeon who holds a medical
18 doctor or doctor of osteopathy degree wherever and whenever
19 required as a part of the training program, and may receive
20 compensation for that practice. If the graduate fails to receive a
21 license to practice podiatric medicine under this chapter within
22 three years from the commencement of the postgraduate training,
23 all privileges and exemptions under this section shall
24 automatically cease.

25 (b) Hospitals functioning as a part of the teaching program of
26 an approved college or school of podiatric medicine in this state
27 may exchange instructors or resident or assistant resident doctors
28 of podiatric medicine with another approved college or school of
29 podiatric medicine not located in this state, or those hospitals
30 may appoint a graduate of an approved school as such a resident
31 for purposes of postgraduate training. Those instructors and
32 residents may practice and be compensated as provided in this
33 section, but that practice and compensation shall be for a period
34 not to exceed two year.

35 SEC. 22. Section 2492 of the Business and Professions Code
36 is amended to read:

37 2492. (a) The board shall examine every applicant for a
38 certificate to practice podiatric medicine to ensure a minimum of
39 entry-level competence at the time and place designated by the
40 board in its discretion, but at least twice a year.

1 (b) Unless the applicant meets the requirements of Section
2 2486, applicants shall be required to have taken and passed the
3 examination administered by the National Board of Podiatric
4 Medical Examiners.

5 (c) The board may appoint qualified persons to give the whole
6 or any portion of any examination as provided in this article, who
7 shall be designated as examination commissioners. The board
8 may fix the compensation of those persons subject to the
9 provisions of applicable state laws and regulations.

10 (d) The provisions of Article 9 (commencing with Section
11 2170) shall apply to examinations administered by the board
12 except where those provisions are in conflict with or inconsistent
13 with the provisions of this article. In respect to applicants under
14 this article any references to the “Division of Licensing” or
15 “division” shall be deemed to apply to the board.

16 SEC. 23. Section 2493 of the Business and Professions Code
17 is amended to read:

18 2493. (a) An applicant for a certificate to practice podiatric
19 medicine shall pass an examination in the subjects required by
20 Section 2483 in order to ensure a minimum of entry-level
21 competence.

22 (b) The board shall require a passing score on the National
23 Board of Podiatric Medical Examiners Part III examination that
24 is consistent with the postgraduate training requirement in
25 Section 2484. The board, as of July 1, 2005, shall require a
26 passing score one standard error of measurement higher than the
27 national passing scale score until such time as the National Board
28 of Podiatric Medical Examiners recommends a higher passing
29 score consistent with Section 2484. In consultation with the
30 Office of Examination Resources of the Department of
31 Consumer Affairs, the board shall ensure that the part III
32 examination adequately evaluates the full scope of practice
33 established by Section 2472, including amputation and other foot
34 and ankle surgical procedures, pursuant to Section 139.

35 ~~SEC. 24. Section 2496 of the Business and Professions Code~~
36 ~~is amended to read:~~

37 ~~2496. In order to ensure the continuing competence of~~
38 ~~persons licensed to practice podiatric medicine, the board shall~~
39 ~~adopt and administer regulations requiring continuing education~~
40 ~~of those licensees. The board shall require those licensees to~~

1 ~~demonstrate satisfaction of the continuing education~~
2 ~~requirements and one of the following requirements at each~~
3 ~~license renewal:~~

4 ~~(a) Passage of an examination administered by the board~~
5 ~~within the past 10 years.~~

6 ~~(b) Passage of an examination administered by an approved~~
7 ~~specialty certifying board within the past 10 years.~~

8 ~~(c) Current diplomate, board-eligible, or board-qualified status~~
9 ~~granted by an approved specialty certifying board within the past~~
10 ~~10 years.~~

11 ~~(d) Recertification of current status by an approved specialty~~
12 ~~certifying board within the past 10 years.~~

13 ~~(e) Successful completion of an approved residency or~~
14 ~~fellowship program within the past 10 years.~~

15 ~~(f) Granting or renewal of current staff privileges within the~~
16 ~~past five years by a health care facility that is licensed, certified,~~
17 ~~accredited, conducted, maintained, operated, or otherwise~~
18 ~~approved by an agency of the federal or state government or an~~
19 ~~organization approved by the Medical Board of California.~~

20 ~~(g) Successful completion within the past five years of an~~
21 ~~extended course of study approved by the board.~~

22 ~~(h) Passage within the past 10 years of part III of the~~
23 ~~examination administered by the National Board of Podiatric~~
24 ~~Medical Examiners.~~

25 ~~SEC. 25.~~

26 *SEC. 24.* Section 2498 of the Business and Professions Code
27 is amended to read:

28 2498. (a) The board shall have the responsibility for
29 reviewing the quality of podiatric medical practice carried out by
30 persons licensed to practice podiatric medicine.

31 (b) Each member of the board, or any licensed doctor of
32 podiatric medicine appointed by the board, shall additionally
33 have the authority to inspect, or require reports from, a general or
34 specialized hospital and the podiatric medical staff thereof, with
35 respect to the podiatric medical care, services, or facilities
36 provided therein, and may inspect podiatric medical patient
37 records with respect to the care, services, or facilities. The
38 authority to make inspections and to require reports as provided
39 by this section shall not be delegated by a member of the board to
40 any person other than a doctor of podiatric medicine and shall be

1 subject to the restrictions against disclosure described in Section
2 2263.

3 ~~SEC. 26.~~

4 *SEC. 25.* Section 2499.8 of the Business and Professions
5 Code is amended to read:

6 2499.8. Any licensee who demonstrates to the satisfaction of
7 the board that he or she is unable to practice podiatric medicine
8 due to a disability may request a waiver of the license renewal
9 fee. The granting of a waiver shall be at the discretion of the
10 board and may be terminated at any time. Waivers shall be based
11 on the inability of a licensee to practice podiatric medicine. A
12 licensee whose renewal fee has been waived pursuant to this
13 section shall not engage in the practice of podiatric medicine
14 unless and until the licensee pays the current renewal fee and
15 does either of the following:

16 (a) Establishes to the satisfaction of the board, on a form
17 prescribed by the board and signed under penalty of perjury, that
18 the licensee's disability either no longer exists or does not affect
19 his or her ability to practice podiatric medicine safely.

20 (b) Signs an agreement on a form prescribed by the board,
21 signed under penalty of perjury, in which the licensee agrees to
22 limit his or her practice in the manner prescribed by the
23 reviewing physician.

24 ~~SEC. 27.~~

25 *SEC. 26.* Section 2570.8 of the Business and Professions
26 Code is repealed.

27 ~~SEC. 28.~~

28 *SEC. 27.* Section 2741 of the Business and Professions Code
29 is amended to read:

30 2741. An application for reexamination shall be accompanied
31 by the fees prescribed by this chapter.

32 ~~SEC. 29.~~

33 *SEC. 28.* Section 3735 of the Business and Professions Code
34 is amended to read:

35 3735. Except as otherwise provided in this chapter, no
36 applicant shall receive a license under this chapter without first
37 successfully passing the national respiratory therapist
38 examination conducted by those persons, and in the manner and
39 under the rules and regulations, as the board may prescribe.

1 ~~SEC. 30.~~

2 ~~SEC. 29.~~ Section 3735.3 of the Business and Professions
3 Code is repealed.

4 ~~SEC. 31.~~

5 ~~SEC. 30.~~ Section 3736 of the Business and Professions Code
6 is repealed.

7 ~~SEC. 32.~~

8 ~~SEC. 31.~~ Section 3739 of the Business and Professions Code
9 is amended to read:

10 3739. (a) (1) Except as otherwise provided in this section,
11 every person who has filed an application for licensure with the
12 board may, between the dates specified by the board, perform as
13 a respiratory care practitioner applicant under the direct
14 supervision of a respiratory care practitioner licensed in this state
15 provided he or she has met education requirements for licensure
16 as may be certified by his or her respiratory care program, and if
17 ever attempted, has passed the national respiratory therapist
18 examination.

19 (2) During this period the applicant shall identify himself or
20 herself only as a “respiratory care practitioner applicant.”

21 (3) If for any reason the license is not issued, all privileges
22 under this subdivision shall automatically cease on the date
23 specified by the board.

24 (b) If an applicant fails the national respiratory therapist
25 examination, all privileges under this section shall automatically
26 cease on the date specified by the board.

27 (c) No applicant for a respiratory care practitioner license shall
28 be authorized to perform as a respiratory care practitioner
29 applicant if cause exists to deny the license.

30 (d) “Under the direct supervision” means assigned to a
31 respiratory care practitioner who is on duty and immediately
32 available in the assigned patient care area.

33 ~~SEC. 33.~~

34 ~~SEC. 32.~~ Section 3775.2 of the Business and Professions
35 Code is repealed.

36 ~~SEC. 34.~~

37 ~~SEC. 33.~~ Section 3775.3 of the Business and Professions
38 Code is repealed.

~~SEC. 35.~~

SEC. 34. Section 3779 is added to the Business and Professions Code, to read:

3779. For purposes of license verification, a person may rely upon the licensing information as it is displayed on the board's Internet Web site that includes the issuance and expiration dates of any license issued by the board.

~~SEC. 36.~~

SEC. 35. Section 4005 of the Business and Professions Code is amended to read:

4005. (a) The board may adopt rules and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public. Included therein shall be the right to adopt rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of persons and establishments licensed under this chapter; pertaining to establishments wherein any drug or device is compounded, prepared, furnished, or dispensed; providing for standards of minimum equipment for establishments licensed under this chapter; pertaining to the sale of drugs by or through any mechanical device; and relating to pharmacy practice experience necessary for licensure as a pharmacist.

(b) Notwithstanding any provision of this chapter to the contrary, the board may adopt regulations permitting the dispensing of drugs or devices in emergency situations, and permitting dispensing of drugs or devices pursuant to a prescription of a person licensed to prescribe in a state other than California where the person, if licensed in California in the same licensure classification would, under California law, be permitted to prescribe drugs or devices and where the pharmacist has first interviewed the patient to determine the authenticity of the prescription.

(c) The adoption, amendment, or repeal by the board of these or any other board rules or regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

~~SEC. 37.~~

SEC. 36. Section 4023.5 is added to the Business and Professions Code, to read:

1 4023.5. For the purposes of this chapter, “direct supervision
2 and control” means that a pharmacist is on the premises at all
3 times and is fully aware of all activities performed by either a
4 pharmacy technician or intern pharmacist.

5 ~~SEC. 38.~~

6 SEC. 37. Section 4038 of the Business and Professions Code
7 is amended to read:

8 4038. (a) “Pharmacy technician” means an individual who
9 assists a pharmacist in a pharmacy in the performance of his or
10 her pharmacy related duties, as specified in Section 4115.

11 (b) A “pharmacy technician trainee” is a person who is
12 enrolled in a pharmacy technician training program operated by a
13 California public postsecondary education institution or by a
14 private postsecondary vocational institution approved by the
15 Bureau for Private Postsecondary and Vocational Education.

16 ~~SEC. 39.~~

17 SEC. 38. Section 4053 of the Business and Professions Code,
18 as added by Section 7 of Chapter 857 of the Statutes of 2004, is
19 amended to read:

20 4053. (a) Notwithstanding Section 4051, the board may issue
21 a license as a designated representative to provide sufficient and
22 qualified supervision in a wholesaler or veterinary food-animal
23 drug retailer. The designated representative shall protect the
24 public health and safety in the handling, storage, and shipment of
25 dangerous drugs and dangerous devices in the wholesaler or
26 veterinary food-animal drug retailer.

27 (b) An individual may apply for a designated representative
28 license. In order to obtain and maintain that license, the
29 individual shall meet all of the following requirements:

30 (1) He or she shall be a high school graduate or possess a
31 general education development equivalent.

32 (2) He or she shall have a minimum of one year of paid work
33 experience, in the past three years, related to the distribution or
34 dispensing of dangerous drugs or dangerous devices or meet all
35 of the prerequisites to take the examination required for licensure
36 as a pharmacist by the board.

37 (3) He or she shall complete a training program approved by
38 the board that, at a minimum, addresses each of the following
39 subjects:

1 (A) Knowledge and understanding of California law and
2 federal law relating to the distribution of dangerous drugs and
3 dangerous devices.

4 (B) Knowledge and understanding of California law and
5 federal law relating to the distribution of controlled substances.

6 (C) Knowledge and understanding of quality control systems.

7 (D) Knowledge and understanding of the United States
8 Pharmacopoeia standards relating to the safe storage and
9 handling of drugs.

10 (E) Knowledge and understanding of prescription
11 terminology, abbreviations, dosages and format.

12 (4) The board may, by regulation, require training programs to
13 include additional material.

14 (5) The board may not issue a license as a designated
15 representative until the applicant provides proof of completion of
16 the required training to the board.

17 (c) The veterinary food-animal drug retailer or wholesaler
18 shall not operate without a pharmacist or a designated
19 representative on its premises.

20 (d) Only a pharmacist or a designated representative shall
21 prepare and affix the label to veterinary food-animal drugs.

22 (e) Section 4051 shall not apply to any laboratory licensed
23 under Section 351 of Title III of the Public Health Service Act
24 (Public Law 78-410).

25 ~~SEC. 40.~~

26 *SEC. 39.* Section 4104 of the Business and Professions Code
27 is amended to read:

28 4104. (a) Every pharmacy shall have in place procedures for
29 taking action to protect the public when a licensed individual
30 employed by or with the pharmacy is discovered or known to be
31 chemically, mentally, or physically impaired to the extent it
32 affects his or her ability to practice the profession or occupation
33 authorized by his or her license, or is discovered or known to
34 have engaged in the theft, diversion, or self-use of dangerous
35 drugs.

36 (b) Every pharmacy shall have written policies and procedures
37 for detecting chemical, mental, or physical impairment, as well
38 as theft, diversion, or self-use of dangerous drugs, among
39 licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report to the board, within 30 days of the receipt or development of the following information with regard to any licensed individual employed by or with the pharmacy:

(1) Any admission by a licensed individual of chemical, mental, or physical impairment affecting his or her ability to practice.

(2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous drugs.

(3) Any video or documentary evidence demonstrating chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(4) Any video or documentary evidence demonstrating theft, diversion, or self-use of dangerous drugs by a licensed individual.

(5) Any termination based on chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) Anyone participating in good faith in the making of a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.

~~SEC. 41.~~

SEC. 40. Section 4106 of the Business and Professions Code is amended to read:

4106. For purposes of license verification, a person may rely upon the licensing information as it is displayed on the board's Internet Web site that includes the issuance and expiration dates of any license issued by the board.

~~SEC. 42.~~

SEC. 41. Section 4114 of the Business and Professions Code is amended to read:

4114. (a) An intern pharmacist may perform all functions of a pharmacist at the discretion of and under the direct supervision and control of a pharmacist whose license is in good standing with the board.

1 (b) A pharmacist may not supervise more than two intern
2 pharmacists at any one time.

3 ~~SEC. 43.~~

4 *SEC. 42.* Section 4115 of the Business and Professions Code
5 is amended to read:

6 4115. (a) A pharmacy technician may perform packaging,
7 manipulative, repetitive, or other nondiscretionary tasks, only
8 while assisting, and while under the direct supervision and
9 control of a pharmacist.

10 (b) This section does not authorize the performance of any
11 tasks specified in subdivision (a) by a pharmacy technician
12 without a pharmacist on duty.

13 (c) This section does not authorize a pharmacy technician to
14 perform any act requiring the exercise of professional judgment
15 by a pharmacist.

16 (d) The board shall adopt regulations to specify tasks pursuant
17 to subdivision (a) that a pharmacy technician may perform under
18 the supervision of a pharmacist. Any pharmacy that employs a
19 pharmacy technician shall do so in conformity with the
20 regulations adopted by the board.

21 (e) No person shall act as a pharmacy technician without first
22 being licensed by the board as a pharmacy technician.

23 (f) (1) A pharmacy with only one pharmacist shall have no
24 more than one pharmacy technician performing the tasks
25 specified in subdivision (a). The ratio of pharmacy technicians
26 performing the tasks specified in subdivision (a) to any additional
27 pharmacist shall not exceed 2:1, except that this ratio shall not
28 apply to personnel performing clerical functions pursuant to
29 Section 4116 or 4117. This ratio is applicable to all practice
30 settings, except for an inpatient of a licensed health facility, a
31 patient of a licensed home health agency, as specified in
32 paragraph (2), an inmate of a correctional facility of the
33 Department of the Youth Authority or the Department of
34 Corrections, and for a person receiving treatment in a facility
35 operated by the State Department of Mental Health, the State
36 Department of Developmental Services, or the Department of
37 Veterans Affairs.

38 (2) The board may adopt regulations establishing the ratio of
39 pharmacy technicians performing the tasks specified in
40 subdivision (a) to pharmacists applicable to the filling of

1 prescriptions of an inpatient of a licensed health facility and for a
2 patient of a licensed home health agency. Any ratio established
3 by the board pursuant to this subdivision shall allow, at a
4 minimum, at least one pharmacy technician for a single
5 pharmacist in a pharmacy and two pharmacy technicians for each
6 additional pharmacist, except that this ratio shall not apply to
7 personnel performing clerical functions pursuant to Section 4116
8 or 4117.

9 (3) A pharmacist scheduled to supervise a second pharmacy
10 technician may refuse to supervise a second pharmacy technician
11 if the pharmacist determines, in the exercise of his or her
12 professional judgment, that permitting the second pharmacy
13 technician to be on duty would interfere with the effective
14 performance of the pharmacist's responsibilities under this
15 chapter. A pharmacist assigned to supervise a second pharmacy
16 technician shall notify the pharmacist in charge in writing of his
17 or her determination, specifying the circumstances of concern
18 with respect to the pharmacy or the pharmacy technician that
19 have led to the determination, within a reasonable period, but not
20 to exceed 24 hours, after the posting of the relevant schedule. No
21 entity employing a pharmacist may discharge, discipline, or
22 otherwise discriminate against any pharmacist in the terms and
23 conditions of employment for exercising or attempting to
24 exercise in good faith the right established pursuant to this
25 paragraph.

26 (g) Notwithstanding subdivisions (a) and (b), the board shall
27 by regulation establish conditions to permit the temporary
28 absence of a pharmacist for breaks and lunch periods pursuant to
29 Section 512 of the Labor Code and the orders of the Industrial
30 Welfare Commission without closing the pharmacy. During these
31 temporary absences, a pharmacy technician may, at the discretion
32 of the pharmacist, remain in the pharmacy but may only perform
33 nondiscretionary tasks. The pharmacist shall be responsible for a
34 pharmacy technician and shall review any task performed by a
35 pharmacy technician during the pharmacist's temporary absence.
36 Nothing in this subdivision shall be construed to authorize a
37 pharmacist to supervise pharmacy technicians in greater ratios
38 than those described in subdivision (f).

39 (h) The pharmacist on duty shall be directly responsible for the
40 conduct of a pharmacy technician supervised by that pharmacist.

~~SEC. 44.~~

SEC. 43. Section 4115.5 of the Business and Professions Code is amended to read:

4115.5. (a) Notwithstanding any other provision of law, a pharmacy technician trainee may be placed in a pharmacy to complete an externship for the purpose of obtaining practical training required to become licensed as a pharmacy technician.

(b) (1) A pharmacy technician trainee participating in an externship as described in subdivision (a) may perform the duties described in subdivision (a) of Section 4115 only under the direct supervision and control of a pharmacist.

(2) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall be directly responsible for the conduct of the trainee.

(3) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall verify any prescription prepared by the trainee under supervision of the pharmacist by initialing the prescription label before the medication is disbursed to a patient or by engaging in other verification procedures that are specifically approved by board regulations.

(4) A pharmacist may only supervise one pharmacy technician trainee at any given time.

(5) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall certify attendance for the pharmacy technician trainee and certify that the pharmacy technician trainee has met the educational objectives established by a California public postsecondary education institution or the private postsecondary vocational institution in which the trainee is enrolled, as established by the institution.

(c) (1) Except as described in paragraph (2), an externship in which a pharmacy technician trainee is participating as described in subdivision (a) shall be for a period of no more than 120 hours.

(2) When an externship in which a pharmacy technician trainee is participating as described in subdivision (a) involves rotation between a community and hospital pharmacy for the purpose of training the student in distinct practice settings, the externship may be for a period of up to 320 hours. No more than

1 120 of the 320 hours may be completed in a community
2 pharmacy setting or in a single department in a hospital
3 pharmacy.

4 (d) An externship in which a pharmacy technician trainee may
5 participate as described in subdivision (a) shall be for a period of
6 no more than six consecutive months in a community pharmacy
7 and for a total of no more than 12 months if the externship
8 involves rotation between a community and hospital pharmacy.
9 The externship shall be completed while the trainee is enrolled in
10 a course of instruction at the institution.

11 (e) A pharmacy technician trainee participating in an
12 externship as described in subdivision (a) shall wear
13 identification that indicates his or her trainee status.

14 ~~SEC. 45.~~

15 *SEC. 44.* Section 4127.5 of the Business and Professions
16 Code is amended to read:

17 4127.5. The fee for the issuance of a nongovernmental
18 license, or renewal of a license, to compound sterile drug
19 products shall be five hundred dollars (\$500) and may be
20 increased to six hundred dollars (\$600).

21 ~~SEC. 46.~~

22 *SEC. 45.* Section 4161 of the Business and Professions Code,
23 as added by Chapter 887 of the Statutes of 2004, is amended to
24 read:

25 4161. (a) A person located outside this state that ships, mails,
26 or delivers dangerous drugs or dangerous devices into this state
27 shall be considered a nonresident wholesaler.

28 (b) A nonresident wholesaler shall be licensed by the board
29 prior to shipping, mailing, or delivering dangerous drugs or
30 dangerous devices to a site located in this state.

31 (c) A separate license shall be required for each place of
32 business owned or operated by a nonresident wholesaler from or
33 through which dangerous drugs or dangerous devices are
34 shipped, mailed, or delivered to a site located in this state. A
35 license shall be renewed annually and shall not be transferable.

36 (d) The following information shall be reported, in writing, to
37 the board at the time of initial application for licensure by a
38 nonresident wholesaler, on renewal of a nonresident wholesaler
39 license, or within 30 days of a change in that information:

40 (1) Its agent for service of process in this state.

1 (2) Its principal corporate officers, as specified by the board, if
2 any.

3 (3) Its general partners, as specified by the board, if any.

4 (4) Its owners if the applicant is not a corporation or
5 partnership.

6 (e) A report containing the information in subdivision (d) shall
7 be made within 30 days of any change of ownership, office,
8 corporate officer, or partner.

9 (f) A nonresident wholesaler shall comply with all directions
10 and requests for information from the regulatory or licensing
11 agency of the state in which it is licensed, as well as with all
12 requests for information made by the board.

13 (g) A nonresident wholesaler shall maintain records of
14 dangerous drugs and dangerous devices sold, traded, or
15 transferred to persons in this state, so that the records are in a
16 readily retrievable form.

17 (h) A nonresident wholesaler shall at all times maintain a
18 valid, unexpired license, permit, or registration to conduct the
19 business of the wholesaler in compliance with the laws of the
20 state in which it is a resident. An application for a nonresident
21 wholesaler license in this state shall include a license verification
22 from the licensing authority in the applicant's state of residence.

23 (i) The board may not issue or renew a nonresident wholesaler
24 license until the nonresident wholesaler identifies a designated
25 representative-in-charge and notifies the board in writing of the
26 identity and license number of the designated
27 representative-in-charge.

28 (j) The designated representative-in-charge shall be
29 responsible for the nonresident wholesaler's compliance with
30 state and federal laws governing wholesalers. A nonresident
31 wholesaler shall identify and notify the board of a new
32 designated representative-in-charge within 30 days of the date
33 that the prior designated representative-in-charge ceases to be the
34 designated representative-in-charge.

35 (k) The board may issue a temporary license, upon conditions
36 and for periods of time as the board determines to be in the
37 public interest. A temporary license fee shall be fixed by the
38 board at an amount not to exceed the annual fee for renewal of a
39 license to conduct business as a nonresident wholesaler.

1 (l) The registration fee shall be the fee specified in subdivision
2 (f) of Section 4400.

3 ~~SEC. 47.~~

4 *SEC. 46.* Section 4202 of the Business and Professions Code
5 is amended to read:

6 4202. (a) The board may issue a pharmacy technician license
7 to an individual if he or she is a high school graduate or
8 possesses a general educational development certificate
9 equivalent, and meets any one of the following requirements:

10 (1) Has obtained an associate's degree in pharmacy
11 technology.

12 (2) Has completed a course of training specified by the board.

13 (3) Has graduated from a school of pharmacy recognized by
14 the board.

15 (4) Is certified by the Pharmacy Technician Certification
16 Board.

17 (b) The board shall adopt regulations pursuant to this section
18 for the licensure of pharmacy technicians and for the
19 specification of training courses as set out in paragraph (2) of
20 subdivision (a). Proof of the qualifications of any applicant for
21 licensure as a pharmacy technician shall be made to the
22 satisfaction of the board and shall be substantiated by any
23 evidence required by the board.

24 (c) The board shall conduct a criminal background check of
25 the applicant to determine if an applicant has committed acts that
26 would constitute grounds for denial of licensure, pursuant to this
27 chapter or Chapter 2 (commencing with Section 480) of Division
28 1.5.

29 (d) The board may suspend or revoke a license issued pursuant
30 to this section on any ground specified in Section 4301.

31 (e) Once licensed as a pharmacist, the pharmacy technician
32 registration is no longer valid and the pharmacy technician
33 license shall be returned to the board within 15 days.

34 ~~SEC. 48.~~

35 *SEC. 47.* Section 4205 of the Business and Professions Code
36 is amended to read:

37 4205. (a) A license issued pursuant to Section 4110, 4120,
38 4160, or 4161 shall be considered a license within the meaning of
39 Section 4141.

1 (b) The board may, in its discretion, issue a license to any
2 person authorizing the sale and dispensing of hypodermic
3 syringes and needles for animal use.

4 (c) The application for a license shall be made in writing on a
5 form to be furnished by the board. The board may require any
6 information as the board deems reasonably necessary to carry out
7 the purposes of Article 9 (commencing with Section 4140) of this
8 chapter.

9 (d) A separate license shall be required for each of the
10 premises of any person who sells or dispenses hypodermic
11 syringes or needles at more than one location.

12 (e) A license shall be renewed annually and shall not be
13 transferable.

14 (f) The board may deny, revoke, or suspend any license issued
15 pursuant to this article for any violation of this chapter.

16 ~~SEC. 49.~~

17 *SEC. 48.* Section 4206 of the Business and Professions Code
18 is repealed.

19 ~~SEC. 50.~~

20 *SEC. 49.* Section 4231 of the Business and Professions Code
21 is amended to read:

22 4231. (a) The board shall not renew a pharmacist license
23 unless the applicant submits proof satisfactory to the board that
24 he or she has successfully completed 30 hours of approved
25 courses of continuing pharmacy education during the two years
26 preceding the application for renewal.

27 (b) Notwithstanding subdivision (a), the board shall not
28 require completion of continuing education for the first renewal
29 of a pharmacist license.

30 (c) If an applicant for renewal of a pharmacist license submits
31 the renewal application and payment of the renewal fee but does
32 not submit proof satisfactory to the board that the licensee has
33 completed 30 hours of continuing pharmacy education, the board
34 shall not renew the license and shall issue the applicant an
35 inactive pharmacist license. A licensee with an inactive
36 pharmacist license issued pursuant to this section may obtain an
37 active pharmacist license by paying the renewal fees due and
38 submitting satisfactory proof to the board that the licensee has
39 completed 30 hours of continuing pharmacy education.

1 ~~SEC. 51.~~

2 *SEC. 50.* Section 4232 of the Business and Professions Code
3 is amended to read:

4 4232. (a) The courses shall be in the form of postgraduate
5 studies, institutes, seminars, lectures, conferences, workshops,
6 extension studies, correspondence courses, and other similar
7 methods of conveying continuing professional pharmacy
8 education.

9 (b) The subject matter shall be pertinent to the socioeconomic
10 and legal aspects of health care, the properties and actions of
11 drugs and dosage forms and the etiology, and characteristics and
12 therapeutics of the disease state.

13 (c) The subject matter of the courses may include, but shall not
14 be limited to, the following: pharmacology, biochemistry,
15 physiology, pharmaceutical chemistry, pharmacy administration,
16 pharmacy jurisprudence, public health and communicable
17 diseases, professional practice management, anatomy, histology,
18 and any other subject matter as represented in curricula of
19 accredited colleges of pharmacy.

20 ~~SEC. 52.~~

21 *SEC. 51.* Section 4315 of the Business and Professions Code
22 is amended to read:

23 4315. (a) The executive officer, or his or her designee, may
24 issue a letter of admonishment to a licensee for failure to comply
25 with this chapter or regulations adopted pursuant to this chapter,
26 directing the licensee to come into compliance.

27 (b) The letter of admonishment shall be in writing and shall
28 describe in detail the nature and facts of the violation, including a
29 reference to the statutes or regulations violated.

30 (c) The letter of admonishment shall inform the licensee that
31 within 30 days of service of the order of admonishment the
32 licensee may do either of the following:

33 (1) Submit a written request for an office conference to the
34 executive officer of the board to contest the letter of
35 admonishment.

36 (A) Upon a timely request, the executive officer, or his or her
37 designee, shall hold an office conference with the licensee or the
38 licensee's legal counsel or authorized representative. Unless so
39 authorized by the executive officer, or his or her designee, no
40 individual other than the legal counsel or authorized

1 representative of the licensee may accompany the licensee to the
2 office conference.

3 (B) Prior to or at the office conference the licensee may
4 submit to the executive officer declarations and documents
5 pertinent to the subject matter of the letter of admonishment.

6 (C) The office conference is intended to be an informal
7 proceeding and shall not be subject to the provisions of the
8 Administrative Procedure Act (Chapter 3.5 (commencing with
9 Section 11340), Chapter 4 (commencing with Section 11370),
10 Chapter 4.5 (commencing with Section 11400), and Chapter 5
11 (commencing with Section 11500) of Part 1 of Division 3 of Title
12 2 of the Government Code).

13 (D) The executive officer, or his or her designee, may affirm,
14 modify, or withdraw the letter of admonishment. Within 14
15 calendar days from the date of the office conference, the
16 executive officer, or his or her designee, shall personally serve or
17 send by certified mail to the licensee's address of record with the
18 board a written decision. This decision shall be deemed the final
19 administrative decision concerning the letter of admonishment.

20 (E) Judicial review of the decision may be had by filing a
21 petition for a writ of mandate in accordance with the provisions
22 of Section 1094.5 of the Code of Civil Procedure within 30 days
23 of the date the decision was personally served or sent by certified
24 mail. The judicial review shall extend to the question of whether
25 or not there was a prejudicial abuse of discretion in the issuance
26 of the letter of admonishment.

27 (2) Comply with the letter of admonishment and submit a
28 written corrective action plan to the executive officer
29 documenting compliance. If an office conference is not requested
30 pursuant to this section, compliance with the letter of
31 admonishment shall not constitute an admission of the violation
32 noted in the letter of admonishment.

33 (d) The letter of admonishment shall be served upon the
34 licensee personally or by certified mail at the licensee's address
35 of record with the board. If the licensee is served by certified
36 mail, service shall be effective upon deposit in the United States
37 mail.

38 (e) The licensee shall maintain and have readily available a
39 copy of the letter of admonishment and corrective action plan, if

1 any, for at least three years from the date of issuance of the letter
2 of admonishment.

3 (f) Nothing in this section shall in any way limit the board's
4 authority or ability to do either of the following:

5 (1) Issue a citation pursuant to Section 125.9, 148, or 4067 or
6 pursuant to Section 1775, 1775.15, 1777, or 1778 of Title 16 of
7 the California Code of Regulations.

8 (2) Institute disciplinary proceedings pursuant to Article 19
9 (commencing with Section 4300).

10 ~~SEC. 53.~~

11 *SEC. 52.* Section 4360 of the Business and Professions Code
12 is amended to read:

13 4360. The board shall operate a pharmacists recovery
14 program to rehabilitate pharmacists and intern pharmacists whose
15 competency may be impaired due to abuse of alcohol, drug use,
16 or mental illness. The intent of the pharmacists recovery program
17 is to return these pharmacists and intern pharmacists to the
18 practice of pharmacy in a manner that will not endanger the
19 public health and safety.

20 ~~SEC. 54.~~

21 *SEC. 53.* Section 4361 of the Business and Professions Code
22 is repealed.

23 ~~SEC. 55.~~

24 *SEC. 54.* Section 4361 is added to the Business and
25 Professions Code, to read:

26 4361. (a) "Participant" means a pharmacist or intern
27 pharmacist who has entered the pharmacists recovery program.

28 (b) "Pharmacists recovery program" means the rehabilitation
29 program created by this article for pharmacists and intern
30 pharmacists.

31 ~~SEC. 56.~~

32 *SEC. 55.* Section 4362 of the Business and Professions Code
33 is repealed.

34 ~~SEC. 57.~~

35 *SEC. 56.* Section 4362 is added to the Business and
36 Professions Code, to read:

37 4362. (a) A pharmacist or intern pharmacist may enter the
38 pharmacists recovery program if:

1 (1) The pharmacist or intern pharmacist is referred by the
2 board instead of, or in addition to, other means of disciplinary
3 action.

4 (2) The pharmacist or intern pharmacist voluntarily elects to
5 enter the pharmacists recovery program.

6 (b) A pharmacist or intern pharmacist who enters the
7 pharmacists recovery program pursuant to paragraph (2) of
8 subdivision (a) shall not be subject to discipline or other
9 enforcement action by the board solely on his or her entry into
10 the pharmacists recovery program or on information obtained
11 from the pharmacist or intern pharmacist while participating in
12 the program unless the pharmacist or intern pharmacist would
13 pose a threat to the health and safety of the public. However, if
14 the board receives information regarding the conduct of the
15 pharmacist or intern pharmacist, that information may serve as a
16 basis for discipline or other enforcement by the board.

17 ~~SEC. 58.~~

18 *SEC. 57.* Section 4363 of the Business and Professions Code
19 is repealed.

20 ~~SEC. 59.~~

21 *SEC. 58.* Section 4364 of the Business and Professions Code
22 is amended to read:

23 4364. (a) The board shall establish criteria for the
24 participation of pharmacists and intern pharmacists in the
25 pharmacists recovery program.

26 (b) The board may deny a pharmacist or intern pharmacist
27 who fails to meet the criteria for participation entry into the
28 pharmacists recovery program.

29 (c) The establishment of criteria for participation in the
30 pharmacists recovery program shall not be subject to the
31 requirements of Chapter 3.5 (commencing with Section 11340)
32 of Part 1 of Division 3 of Title 2 of the Government Code.

33 ~~SEC. 60.~~

34 *SEC. 59.* Section 4365 of the Business and Professions Code
35 is amended to read:

36 4365. The board shall contract with one or more qualified
37 contractors to administer the pharmacists recovery program.

38 ~~SEC. 61.~~

39 *SEC. 60.* Section 4366 of the Business and Professions Code
40 is amended to read:

1 4366. The functions of the contractor administering the
2 pharmacists recovery program shall include, but not be limited
3 to, the following:

4 (a) To evaluate those pharmacists and intern pharmacists who
5 request participation in the program.

6 (b) To develop a treatment contract with each participant in
7 the pharmacists recovery program.

8 (c) To monitor the compliance of each participant with their
9 treatment contract.

10 (d) To prepare reports as required by the board.

11 (e) To inform each participant of the procedures followed in
12 the program.

13 (f) To inform each participant of their rights and
14 responsibilities in the program.

15 (g) To inform each participant of the possible consequences of
16 noncompliance with the program.

17 ~~SEC. 62.~~

18 *SEC. 61.* Section 4367 of the Business and Professions Code
19 is repealed.

20 ~~SEC. 63.~~

21 *SEC. 62.* Section 4368 of the Business and Professions Code
22 is repealed.

23 ~~SEC. 64.~~

24 *SEC. 63.* Section 4369 of the Business and Professions Code
25 is amended to read:

26 4369. (a) Any failure to comply with the treatment contract,
27 determination that the participant is failing to derive benefit from
28 the program, or other requirements of the pharmacists recovery
29 program may result in the termination of the pharmacist's or
30 intern pharmacist's participation in the pharmacists recovery
31 program. The name and license number of a pharmacist or intern
32 pharmacist who is terminated from the pharmacists recovery
33 program and the basis for the termination shall be reported to the
34 board.

35 (b) Participation in the pharmacists recovery program shall not
36 be a defense to any disciplinary action that may be taken by the
37 board.

38 (c) No provision of this article shall preclude the board from
39 commencing disciplinary action against a licensee who is
40 terminated from the pharmacists recovery program.

~~SEC. 65.~~

SEC. 64. Section 4370 of the Business and Professions Code is repealed.

~~SEC. 66.~~

SEC. 65. Section 4371 of the Business and Professions Code is amended to read:

4371. The board shall review the pharmacists recovery program on a quarterly basis. As part of this evaluation, the board shall review files of all participants in the pharmacists recovery program.

~~SEC. 67.~~

SEC. 66. Section 4372 of the Business and Professions Code is amended to read:

4372. All board records and records of the pharmacists recovery program pertaining to the treatment of a pharmacist or intern pharmacist in the program shall be kept confidential and are not subject to discovery, subpoena, or disclosure pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. However, board records and records of the pharmacists recovery program may be disclosed and testimony provided in connection with participation in the pharmacists recovery program, but only to the extent those records or testimony are relevant to the conduct for which the pharmacist or intern pharmacist was terminated from the pharmacists recovery program.

~~SEC. 68.~~

SEC. 67. Section 4373 of the Business and Professions Code is amended to read:

4373. No member of the board shall be liable for any civil damages because of acts or omissions that may occur while acting in good faith pursuant to this article.

~~SEC. 69.~~

SEC. 68. Section 4400 of the Business and Professions Code, as added by Section 50 of Chapter 857 of the Statutes of 2004, is amended to read:

4400. The amount of fees and penalties prescribed by this chapter, except as otherwise provided is that fixed by the board according to the following schedule:

1 (a) The fee for a nongovernmental pharmacy license shall be
2 three hundred forty dollars (\$340) and may be increased to four
3 hundred dollars (\$400).

4 (b) The fee for a nongovernmental pharmacy annual renewal
5 shall be one hundred seventy-five dollars (\$175) and may be
6 increased to two hundred fifty dollars (\$250).

7 (c) The fee for the pharmacist application and examination
8 shall be one hundred fifty-five dollars (\$155) and may be
9 increased to one hundred eighty-five dollars (\$185).

10 (d) The fee for regrading an examination shall be seventy-five
11 dollars (\$75) and may be increased to eighty-five dollars (\$85). If
12 an error in grading is found and the applicant passes the
13 examination, the regrading fee shall be refunded.

14 (e) The fee for a pharmacist license and biennial renewal shall
15 be one hundred fifteen dollars (\$115) and may be increased to
16 one hundred fifty dollars (\$150).

17 (f) The fee for a nongovernmental wholesaler license and
18 annual renewal shall be five hundred fifty dollars (\$550) and may
19 be increased to six hundred dollars (\$600).

20 (g) The fee for a hypodermic license and renewal shall be
21 ninety dollars (\$90) and may be increased to one hundred
22 twenty-five dollars (\$125).

23 (h) (1) The fee for application, investigation, and issuance of
24 a license as a designated representative pursuant to Section 4053
25 shall be one hundred eighty-five dollars (\$185) and may be
26 increased to two hundred fifty dollars (\$250). If the applicant is
27 not issued a license as a designated representative, the board shall
28 refund one hundred ten dollars (\$110) of the fee.

29 (2) The fee for the annual renewal of a license as a designated
30 representative shall be one hundred ten dollars (\$110) and may
31 be increased to one hundred fifty dollars (\$150).

32 (i) (1) The fee for the application, investigation, and issuance
33 of a license as a designated representative for a veterinary
34 food-animal drug retailer pursuant to Section 4053 shall be two
35 hundred fifty dollars (\$250). If the applicant is not issued a
36 license as a designated representative, the board shall refund one
37 hundred fifty dollars (\$150) of the fee.

38 (2) The fee for the annual renewal of a license as a designated
39 representative for a veterinary food-animal drug retailer shall be
40 one hundred ten dollars (\$110).

1 (j) The fee for a nonresident wholesaler's license and annual
2 renewal issued pursuant to Section 4120 shall be five hundred
3 fifty dollars (\$550) and may be increased to six hundred dollars
4 (\$600).

5 (k) The fee for evaluation of continuing education courses for
6 accreditation shall be set by the board at an amount not to exceed
7 forty dollars (\$40) per course hour.

8 (l) The fee for an intern pharmacist license shall be sixty-five
9 dollars (\$65) and may be increased to seventy-five dollars (\$75).
10 The fee for transfer of intern hours or verification of licensure to
11 another state shall be fixed by the board not to exceed twenty
12 dollars (\$20).

13 (m) The board may waive or refund the additional fee for the
14 issuance of a certificate where the certificate is issued less than
15 45 days before the next regular renewal date.

16 (n) The fee for the reissuance of any license, or renewal
17 thereof, that has been lost or destroyed or reissued due to a name
18 change is thirty dollars (\$30).

19 (o) The fee for the reissuance of any license, or renewal
20 thereof, that must be reissued because of a change in the
21 information, is sixty dollars (\$60) and may be increased to one
22 hundred dollars (\$100).

23 (p) It is the intent of the Legislature that, in setting fees
24 pursuant to this section, the board shall seek to maintain a reserve
25 in the Pharmacy Board Contingent Fund equal to approximately
26 one year's operating expenditures.

27 (q) The fee for any applicant for a nongovernmental clinic
28 permit is three hundred forty dollars (\$340) and may be increased
29 to four hundred dollars (\$400) for each permit. The annual fee
30 for renewal of the permit is one hundred seventy-five dollars
31 (\$175) and may be increased to two hundred fifty dollars (\$250)
32 for each permit.

33 (r) The board shall charge a fee for the processing and
34 issuance of a license to a pharmacy technician and a separate fee
35 for the biennial renewal of the license. The license fee shall be
36 twenty-five dollars (\$25) and may be increased to fifty dollars
37 (\$50). The biennial renewal fee shall be twenty-five dollars (\$25)
38 and may be increased to fifty dollars (\$50).

39 (s) The fee for a veterinary food-animal drug retailer license
40 shall be four hundred dollars (\$400). The annual renewal fee for

1 a veterinary food-animal drug retailer shall be two hundred fifty
2 dollars (\$250).

3 (t) The fee for issuance of a retired license pursuant to Section
4 4200.5 shall be thirty dollars (\$30).

5 ~~SEC. 70.~~

6 *SEC. 69.* Section 4850 of the Business and Professions Code
7 is amended to read:

8 4850. Every person holding a license under this chapter shall
9 conspicuously display the license in his or her principal place of
10 business.

11 ~~SEC. 71.~~

12 *SEC. 70.* Section 17.5 of this bill incorporates amendments to
13 Section 2234.1 of the Business and Professions Code proposed
14 by both this bill and Assembly Bill 592. It shall only become
15 operative if (1) both bills are enacted and become effective on or
16 before January 1, 2006, (2) each bill amends Section 2234.1 of
17 the Business and Professions Code, and (3) this bill is enacted
18 after Assembly Bill 592, in which case Section 17 of this bill
19 shall not become operative.

20 ~~SEC. 72.~~

21 *SEC. 71.* No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the
26 penalty for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition of a
28 crime within the meaning of Section 6 of Article XIII B of the
29 California Constitution.